



**Indiana Family and Social Services
Administration**

Statewide Waiver Ombudsman Program

**Annual Report
IC 12-11-13-13
December 31, 2021**

**Division of Disability and Rehabilitative Services (DDRS), Bureau of
Developmental Disabilities Services (BDDS)**

History:

The Indiana General Assembly created the Statewide Waiver Ombudsman Program in 1999 pursuant to Indiana Code 12-11-13-1. The program applies to an individual who has a developmental disability and receives services through a waiver under the federal home and community-based services program. The Bureau of Developmental Disabilities Services (BDDS) implements the home and community-based waiver programs for individuals with developmental disabilities.

Annual Report:

Indiana Code 12-11-13-13 requires an annual report on the operations of the program to be prepared. A copy of the report shall be provided to (1) the governor; (2) the legislative council; (3) the division; and (4) the members of the commission on developmental disabilities established by IC 2-5-27.2-2. The report to the commission shall be annually or upon request of the commission.

Purpose:

The Waiver Ombudsman receives, investigates, and attempts to resolve complaints and concerns that are made by or on behalf of individuals who have a developmental disability and who receive services through BDDS.

Outcome:

The desired outcomes of the program are:

- 1) Complaints are addressed, investigated, and, when possible, resolved.
- 2) Promotion of effective coordination among programs that provide legal services for individuals with developmental disabilities, the division, providers for waiver services to individuals with developmental disabilities and providers of other necessary or appropriate services; and
- 3) Trends are identified and recommendations for needed changes in the services delivery system are implemented.

Table 1. This table displays the unique count of requests for assistance submitted to the Waiver Ombudsman in the prior year. Each request for assistance is categorized by the type of assistance requested and the state service that is the subject of the request.

Waiver Ombudsman Activity	CIH¹ Waiver Total	FSW² Waiver Total	SGL³ Total	ESN⁴ Total	CRMNF⁵ Total	No Services	Nursing Facility
Adult Protective Services Assistance	10	3					
Behavior Management	2						
Budget Issues							
Case Management							
CIH Request							
Client Non-Participation	65	2	3			1	
Client/Provider Issues							
Community Transition							
Current Placement Issue	8	5					
Crisis Assistance Request	26						
Day Services Issues							
Family/Non-guardian interference	75	28	4				
Guardian Non-Compliance	173	26	30	1		1	2
Health Care Health/Safety	17	4					
Human Rights	8	1					
Individual's Request to Sign-Out							
Medicaid Eligibility	1	1					
NW ⁶ -Abuse							
NW-Exploitation							
NW-Financial							
NW-Environmental							
NW-Services							
RHS ⁷ Abuse							
RHS Exploitation	11						
RHS Financial	7						
RHS Advocacy							
RHS Staffing	28	1					1
RHS Service	557	94	42	6		22	3
RHS Health/Safety							
Roommate Issues	66	1					
Specialized Med. Equip							
Transportation	4						

¹ CIH is Community Integrated Habilitation (Home- and Community-Based Waiver)

² FSW is Family Supports Waiver (Home- and Community-Based Waiver)

³ SGL is Supervised Group Living (Institutional Setting)

⁴ ESN is Extensive Supports Needs (Institutional Setting)

⁵ CRMNF is Comprehensive Rehabilitative Management Needs Facility (Institutional Setting)

⁶ NW is non waiver participants

⁷ RHS is Residential Habilitation and Support (RHS is a service on the CIH waiver.)

Trends:

While the inquiries and complaints the Waiver Ombudsman receives are focused on individual needs, the following provides a snapshot of topical areas or trends that should be noted from the Ombudsman's experience. The following trends represent potential areas of need, stakeholder education and effective coordination of services:

- a) *Concerns Related to Individuals' Guardians* - A number of cases have revolved around guardians passing away without a successor guardian identified. In most of these cases, the Individual Support Team has not taken steps to bring the guardian's passing to anyone's attention. Further, Case Managers and providers continued to allow the individual to make decisions and sign documents as if they were emancipated and without appropriate support. When it was brought to the Ombudsman's attention, an immediate search for a successor guardian began along with safeguards for the individual. In numerous instances, guardians did not stipulate a successor guardian in the original filing. Given Indiana's lack of available guardians and lack of legal definition, it is anticipated this issue will continue.
- b) *Guardians not fulfilling their duties*. In addition to the above guardianship concerns, the Waiver Ombudsman assisted in advocating for individuals with disabilities that indicated concern that their legal guardian was not acting in their best interest. The Waiver Ombudsman connected and collaborated with necessary State agencies to identify appropriate solutions to these guardianship cases.
- c) *Staffing*. Recruiting and maintaining quality staff has been a long-standing issue for providers and has been exasperated by COVID-19. Continued efforts have been explored to address this overall issue. Numerous providers have decided to exit the field and either sell or join other organizations. New providers continue to be established with limited availability due to the staffing issue. Based on the Ombudsman's experience, it has been increasingly difficult for providers to meet the needs of new clients and at times unable to provide appropriate staffing hours for current clients. This is a concerning trend with no short-term solution. While BDDS decreased its pace at reducing the waitlist for the Family Supports Waiver in response to COVID-19, the underlying concern continues to be whether providers have the capacity to provide the required services as individuals are released from the waitlist.
- e) *Client non-participation*. In the Ombudsman's opinion, client non-participation is an upward trend for various reasons. One reason is limited staffing, due to the pandemic, has allowed individuals more time alone to self-direct. Then, when staff are present, individuals are non-compliant with staff request because they've been accustomed to making their own decisions. Now that providers are beginning to have the ability to provide the staffing that was originally provided pre-pandemic, clients are reluctant to participate. Some clients have found that they enjoy having the opportunity to self-direct their daily activities. This is reflected in the number of providers feeling the need to increase their presence in the clients home more than what is really needed or wanted by the individual. Additionally, it's also felt that non-participation has increased due to guardians deciding the level of service needed without input from the individual. Numerous individuals would limit the number of restrictions, staffing and requirements, if given the choice. Lastly, some individuals only want 1-2 services. For example, some individuals would just prefer transportation as an access service, others would just prefer to have case management to access Medicaid alone. Often, these individuals are encouraged that in order to find a

service provider and/or to secure staffing, additional services should be included in the service plan.

- f) *Human Rights–Self Direction and Individual Choice*. The above data reflects a trend in which more individuals are voicing their opinion and concern about the ability to self-direct their services with their team, service providers, or guardians. Basic human rights continue to be a discussion for individuals in services.